IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

WP(C).No. 24333 of 2007(V)

PETITIONER:

K.G.VARGHESE, SENIOR FIELD ASSISTANT,
KALLALA FACTORY, KALLALA ESTATE,
PLANTATION CORPORATION OF KERALA LTD.,
KALADY PLANTATION (PO), ERNAKULAM DISTRICT.

BY ADV. SRI.M.V.THAMBAN

RESPONDENTS:
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1. PLANTATION CORPORATION OF KERALA LTD.,
KOTTAYAM-4,
REPRESENTED BY ITS MANAGING DIRECTOR.

2. N.K.KRISHNAN,
FIELD EXECUTIVE (RETIRED FROM ATHIRAPPALLY ESTATE
OF PLANTATION CORPORATION OF KERALA LTD),
NOW RESIDING AT NELLADAN HOUSE,
THAVALAPPARA, MANJAPRA (PO),
ERNAKULAM DISTRICT.

BY SRI.JOSEPH MARKOSE, SC FOR R1

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 24333 OF 2007
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Dated this the 10th day of August, 2007

J U D G M E N T

This writ petition is filed challenging Exhibits P2, P4 and P8 and to direct respondents to promote the petitioner as First Grade Field Assistant with retrospective effect from the date when the 2nd respondent was promoted to that post. He is also seeking an order directing the first respondent to extend him all consequential reliefs.

2. The 2nd respondent, who is alleged to be junior to the petitioner was promoted by Ext.P2 order dated 2/6/95 to the post of First Grade Field Assistant. Petitioner filed an appeal against 2nd respondent's promotion and had also filed Original Petition in this court as OP No.11563/95. The case was disposed of by Ext.P6 judgment dated 7/1/05 directing the Board of Directors of the Company to reconsider the matter. In the judgment, this court made reference to the

relevant clause in the settlement between the company and the workmen concluded on 4/5/65 and held that going by the said clause, a senior can be superseded if only there is a clear finding that he is inefficient or unsuitable. Proceeding further, this court held that since the order impugned in that case did not disclose such a finding, matter needed reconsideration. It was accordingly that the Board of Directors of the Company was directed to reconsider the claim of the petitioner. Pursuant to the judgment of this Court, the first respondent reconsidered the claim of the petitioner and issued Ext.P8, turning down his request and it is aggrieved by Ext.P8 that this writ petition is filed.

3. Counsel for the writ petitioner submits that it was mainly on account of certain adverse remarks in his confidential reports that he was denied promotion and that since those adverse remarks were not communicated to him, such remarks could not have been relied on against

him.

4. On the other hand, the learned counsel for the first respondent would submit that the petitioner was interviewed along with other eligible candidates and was found to be unfit and it was therefore that the 2nd respondent was promoted by Ext.P2 order dated 2/6/95.

5. Having considered the rival contentions, I am not inclined to accept the contention of the petitioner. It is mentioned in Ext.P8 that selection to the post of First Grade Field Assistant was conducted by a Committee, which interviewed candidates and also perused the confidential records of the candidates. The Committee however found the petitioner and five other persons, who were senior to the petitioner, unsuitable for promotion to the higher post. Though the Committee had examined the confidential records, the order does not say that there were any adverse remarks or that any such adverse remarks were relied on

against the petitioner.

6. In an evaluation by a Committee consisting of experts, when the petitioner was found to be unsuitable for promotion, this court sitting under Article 226 of the Constitution will not be justified in upsetting such a finding rendered by the experts.

Writ petition lacks merits and it is only to be dismissed and I do so.

ANTONY DOMINIC, JUDGE.

Rp